

Application No.: 10/802,794
Attorney Docket No.: 042141
Response under 37 CFR §1.116

REMARKS

Claims 1 - 8 are pending in the present application. Reconsideration in view of the following remarks is respectfully requested.

Allowable Subject Matter

Applicants gratefully acknowledge the indication in the Final Office Action that claims 2, 4 and 5 are allowed.

However, for at least the reasons set forth below, it is submitted that all of claims 1-8 are allowable.

As to the Merits:

Claims 1 and 3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ghanwani et al. (USP 6,400,686), in view of Cheung et al. (Pub No. 2005/0180415).

Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ghanwani et al. (USP 6,400,686), in view of Cheung et al. (Pub No. 2005/0180415), as applied to claim 3 above, and further in view of Nygard et al. (USP 6,044,082).

Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ghanwani et al. (USP 6,400,686), in view of Cheung et al. (Pub No. 2005/0180415), as applied to claim 1 above, and further in view of Gardner et al. (USP 6,327,275).

Claim 8 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ghanwani et al. (USP 6,400,686), in view of Cheung et al. (Pub No. 2005/0180415), and further in view of

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Gardner et al. (USP 6,327,275), as applied to claim 7 above, and further in view of Krishnamachari et al. (Pub No. 2003/0072376).

Each of these rejections is respectfully traversed.

Independent Claim 1:

Claim 1 calls for *wherein each of the sender report packet and the receiver report packet comprises report packets of two kinds differing in size, and the sender side apparatus comprises a transmission bit rate estimation means for estimating transmission bit rate on the basis of round-trip delay time for a sender report packet and a receiver report packet each having a small size and round-trip delay time for a sender report packet and a receiver report packet each having a large size.*

Cheung teaches that the statistical information of the network is measured by some means in advance, and feedback of the report packet which contains the statistical information is performed. This is illustrated in Fig. 1 and described in paragraphs [0030] – [0032] of Cheung as follows:

“a packet analysis device 15 is provided to the wireless base station 10 and monitors the media stream packets that arrive at the wireless base station 10. The sequence of the media stream packets sent to a particular wireless terminal 19 can be identified by means of a pair of source and destination addresses included in the IP header and a pair of source and destination port numbers included in the UDP header. As will be explained in detail below, the RTP header is included in the packet, and the RTP header includes **a sequence number that is unique** to

that packet in the media stream. When detecting the flow of a sequence of packets having the same source addresses and destination addresses and also the same source port numbers and the destination port numbers, **the packet analysis device 15 gives feedback (ACK) of the packet numbers contained in the RTP header, to the media delivery device.**

The media delivery device 11 can detect packet loss from this feedback information. [For example,] [w]hen the media delivery device 11 detects that an I-picture packet was lost from the packet sequence numbers, the media format is switched to a format with a greater frequency of I-pictures. With this operation, the wireless terminal 19 can receive the I-pictures early, and therefore a decline in the quality of reconstruction of the video can be prevented.” (emphasis added) (See also Abstract).

Therefore, as mentioned above, the report packet of Cheung is used to carry statistical information i.e., **to detect packet loss via use of unique sequence number of that packet.** Cheung does not teach how to estimate the statistical information of the network.

On the other hand, the claimed invention provides the means that report packets of two kinds differing in size. The report packets of two kinds differing in size are sent/received and the statistical information of the network is estimated **by measuring arrival time etc. of the report packet. The report packet of this invention is used as a probe to estimate the network information.** There is no motivation for using the method as taught by Cheung in the network of Ghanwani. Moreover, even if the method as taught by Cheung in the network of Ghanwani, it would have been impossible to arrive at this invention.

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Because the proposed combination of cited references does not teach or suggest at least the aforesaid claimed elements and features in claim 1, applicants submit that claims 1-8 would not have been obvious over these references. Accordingly, applicants request that the rejection under 35 U.S.C. 103 be withdrawn.

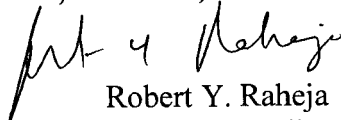
The claims have been shown to be allowable over the prior art. Applicants believe that this paper is responsive to each and every ground of rejection cited in the Final Office Action dated January 24, 2008, and respectfully requests favorable action in this application.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



Robert Y. Raheja
Attorney for Applicants
Registration No. 59,274
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

TEB/RYR/adp